

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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In the Matter of Establishment Inspection of  
BUFFALO RECYCLING ENTERPRISES, LLC  
HILDA SOLIS, Secretary of Labor,  
United States Department of Labor,

**REPORT AND  
RECOMMENDATION**

10-MC-00073(A)(M)

Petitioner,

v.

BUFFALO RECYCLING ENTERPRISES, LLC  
and FRED DOXBECK, General Manager for  
Buffalo Recycling Enterprises, LLC,

Respondents.

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Before me is petitioner's motion for an order of civil contempt [4], and respondents' motion to quash an administrative search warrant [11].<sup>1</sup> For the reasons stated in my March 1, 2011 Report and Recommendation in a related proceeding (10-MC-72-A), I recommend that the motion for an order of civil contempt be denied, and that the motion to quash the warrant be granted, without prejudice to petitioner's right to apply for another warrant.

Unless otherwise ordered by Judge Arcara, any objections to this Report and Recommendation must be filed with the clerk of this court by March 18, 2011 (applying the time frames set forth in Rules 6(a)(1)(C), 6(d), and 72(b)(2)). Any requests for extension of this deadline must be made to Judge Arcara. A party who "fails to object timely . . . waives any right to further judicial review of [this] decision". Wesolek v. Canadair Ltd., 838 F. 2d 55, 58 (2d Cir. 1988); Thomas v. Arn, 474 U.S. 140, 155 (1985).

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<sup>1</sup> Bracketed references are to CM-ECF docket entries.

Moreover, the district judge will ordinarily refuse to consider *de novo* arguments, case law and/or evidentiary material which could have been, but were not, presented to the magistrate judge in the first instance. Patterson-Leitch Co. v. Massachusetts Municipal Wholesale Electric Co., 840 F. 2d 985, 990-91 (1st Cir. 1988).

The parties are reminded that, pursuant to Rule 72(b) and (c) of the Local Rules of Civil Procedure for the Western District of New York, written objections shall “specifically identify the portions of the proposed findings and recommendations to which objection is made and the basis for each objection . . . supported by legal authority”, and must include “a written statement either certifying that the objections do not raise new legal/factual arguments, or identifying the new arguments and explaining why they were not raised to the Magistrate Judge”. Failure to comply with these provisions may result in the district judge’s refusal to consider the objections.

Dated: March 1, 2011

/s/ Jeremiah J. McCarthy  
JEREMIAH J. MCCARTHY  
United States Magistrate Judge